

22 GCA BUSINESS REGULATIONS  
CH. 18 THE CONTRACT OF INSURANCE

**CHAPTER 18**  
**THE CONTRACT OF INSURANCE**

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**ARTICLE 1**  
**CLASSES OF INSURANCE**

- § 18101. Limitations.
- § 18102. Fire Insurance.
- § 18103. Marine Insurance.
- § 18104. Life Insurance.
- § 18105. Accident, Sickness, Health, Property Damage and Liability Insurance.
- § 18106. Fidelity and Surety Insurance.
- § 18107. Motor Vehicle Insurance.
- § 18108. Title Insurance.
- § 18109. Workers' Compensation Insurance.
- § 18110. Miscellaneous.

**§ 18101. Limitations.**

An insurer authorized to do business in Guam may only write classes of insurance authorized by this article and by the insurer's certificate of authority.

**SOURCE:** GC § 43300.

**§ 18102. Fire Insurance.**

Fire insurance includes insurance upon buildings and other property against loss or damage by fire, lightning, windstorms, cyclones, tornadoes, typhoons, hail or earthquakes, water from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, and water pipes; and against loss or damage arising from the prevention or suspension of rent or use and occupation of any building, plant or

manufacturing establishment, due to the' hazard or peril against which the insurance is carried.

SOURCE: GC § 43301.

**§ 18103. Marine Insurance.**

Marine insurance includes insurance upon ocean and inland risks, and transportation, but not including any other casualty insurance as hereinafter provided.

SOURCE: GC § 43302.

**§ 18104. Life Insurance.**

Life insurance includes insurance in all forms of life, endowments and annuities, but does not include health, accident or sickness insurance or any other casualty insurance as hereinafter provided.

SOURCE: GC § 43303.

**§ 18105. Accident, Sickness, Health, Health Maintenance Organization, Property Damage and Liability Insurance.**

(a) Accident insurance and sickness or health insurance includes insurance against injury, disablement resulting from sickness, and every insurance appertaining thereto. Property damage insurance includes all types of insurance against loss or damage to property and liability therefore. Liability insurance includes all insurance against loss or damage resulting from accident to, or injury, fatal or non-fatal, suffered by any person, and for which the insurer is liable.

(b) A Health Maintenance Organization (HMO) is an insurer that is licensed to engage in the business of insurance on Guam that provides individual or group health care plans; or health care services which an enrolled population might reasonably require to maintain good health, including, as a minimum, emergency care, inpatient hospital and medical services, and outpatient medical services on a prepaid basis and regulated under Guam law for solvency. An HMO operating in such manner shall be issued by the Commissioner a Health Maintenance Organization Certificate of Authority.

SOURCE: GC § 43304. Amended by P.L. 28-168:2 (Jan. 10, 2007).

**§ 18106. Fidelity and Surety Insurance.**

Fidelity and surety insurance includes all guaranteeing of persons holding places of public trust, and of the performance of contracts other

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than insurance policies. It also includes the execution of all bonds, undertakings and contracts of suretyship.

SOURCE: GC § 43305.

**§ 18107. Motor Vehicle Insurance.**

Motor vehicle insurance includes all insurance on motor or power driven vehicles, except those operating on water or on rails, against loss or damage to or loss of use of the vehicle or its tools, appliances or equipment, against legal liability for loss or damage to persons or property resulting through the operation of the vehicle caused by fire, self-ignition, explosion, theft, collision or other insurance hazards, including hazards incident to transporting such vehicle by land or water.

SOURCE: GC § 43306.

**§ 18108. Title Insurance.**

Title insurance includes insurance or guaranty of title to real or personal property or any interest or encumbrance thereon, or of information relative to real property, against loss by reason of defective titles, encumbrances, or adverse claims of title, or otherwise.

SOURCE: GC § 43307.

**§ 18109. Worker's Compensation Insurance.**

Worker's compensation insurance includes insurance against loss from liability imposed by law upon employers to compensate employees and their dependents for injury sustained by employees arising out of and in the course or scope of their employment.

SOURCE: GC § 43308.

**§ 18110. Miscellaneous.**

Miscellaneous insurance includes insurance upon any risk not included within or under any of the foregoing classes and which is a proper subject for insurance, not prohibited by law or contrary to sound public policy.

SOURCE: GC § 43309.

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**ARTICLE 2  
PARTIES, EVENTS AND INTERESTS**

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- § 18201. Capacity to Insure.
- § 18202. Capacity to be Insured.
- § 18203. Events Subject to Insurance.
- § 18204. Insurable Interest.
- § 18205. Insurable Interest: Measure.
- § 18206. Insurable Interest: Carrier or Depository.
- § 18207. Insurable Interest: Type of Existence.
- § 18208. Insurable Interest: Change.
- § 18209. Insurable Interest: Transfer

**§ 18201. Capacity to Insure.**

Any person capable of making a contract may be an insurer, subject to the restrictions imposed by this Title.

**SOURCE:** GC § 43325.

**§ 18202. Capacity to be Insured.**

Any person except a public enemy may be insured or may be a beneficiary.

**SOURCE:** GC § 43326.

**§ 18203. Events Subject to Insurance.**

Except as provided in this article, any contingent or unknown event, whether past or future, which may damnify a person having an insurable interest, or create a liability against him, may be insured against, subject to the provisions of this Title.

**SOURCE:** GC § 43327.

**§ 18204. Insurable Interest.**

(a) Every interest in property, or any relation thereto, or any liability in respect thereto, of such a nature that a contemplated peril might directly damnify the insured, is an insurable interest. A mere contingent or expectant interest in anything, not founded upon an actual right to or in the thing, nor upon any valid contract for it, is not insurable.

(b) Every person has an insurable interest in the life and health of:

(1) Himself;

(2) Any person upon whom he depends wholly or in part for education or support;

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(3) Any person under a legal obligation to him for the payment of money or respecting property or services, of which death or illness might delay or prevent performance;

(4) Any person upon whose life any estate or interest vested in him depends.

(c) If the insured has no insurable interest, the contract is void.

SOURCE: GC § 43328.

**§ 18205. Insurable Interest: Measure.**

Except in the case of property held by the insured as a carrier or depository, the measure of an insurable interest in property is the extent to which the insured might be damnified by loss of, or injury to, the property.

SOURCE: GC § 43329.

**§ 18206. Insurable Interest: Carrier or Depository.**

A carrier or depository of any kind has an insurable interest in a thing held by him as such to the extent of its value.

SOURCE: GC § 43330.

**§ 18207. Insurable Interest: Type of Existence.**

An interest in property insured must exist when the insurance takes effect and when the loss occurs but need not exist in the meantime; an interest in the life or health of a person insured must exist when the insurance takes effect but need not exist thereafter or when the loss occurs.

SOURCE: GC § 43331.

**§ 18208. Insurable Interest: Change.**

Except in the cases herein specified, and in the cases of life and disability insurance, a change of interest in any part of a subject insured, unaccompanied by a corresponding change of interest in the insurance, suspends the insurance to an equivalent extent until the interest in the subject and the interest in the insurance are vested in the same person.

(a) A change of interest in a subject insured after the occurrence of an injury which results in a loss does not affect the right of the insured to indemnity for the loss.

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(b) A change of interest in one or more of several distinct subjects separately insured by one policy does not avoid the insurance as to the others.

(c) A change of interest by will or succession, on the death of the insured, does not avoid insurance; and his interest in the insurance passes to the person taking his interest in the subject matter insured.

(d) In the case of partners, joint owners, or owners in common, who are jointly insured, a transfer of interest by one to another thereof does not avoid insurance even though it has been agreed that the insurance shall cease upon an alienation of the subject insured.

SOURCE: GC § 43332.

**§ 18209. Insurable Interest: Transfer.**

The mere transfer of subject matter insured does not transfer the insurance, but suspends it until the same person become the owner of both the insurance and the subject matter insured.

SOURCE: GC § 43333.

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**ARTICLE 3  
THE POLICY**

- § 18301. Contents.
- § 18302. Signature.
- § 18303. Coverage.
- § 18304. Subsequent Owner of Interest.
- § 18305. Liability Policy: Direct Action.
- § 18306. Liability Policy: Insolvency or Bankruptcy.
- § 18307. Open or Valued.
- § 18308. Form Approval.
- § 18308.1. Form: Approval Health Insurance.
- § 18309. Coinsurance Clause Explanation.
- § 18310. Coinsurance Clause Explanation: Notification.
- § 18311. Penalty.

**§ 18301. Contents.**

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The written instrument in which a contract of insurance is set forth is the policy and it shall contain the information required herein:

- (a) The parties between whom the contract is made;
- (b) A description of the property, life or interest insured;
- (c) The interest of the insured;
- (d) The risk insured against;
- (e) The period during which such insurance is to continue;

(f) Either the statement of the Premium or if the insurance is of a character where the exact premium is only determinable upon the termination of the contract, a statement of the basis and rates upon which the final premium is to be determined and paid. Such premium shall exclude as a basis, the appraised value of the land.

**SOURCE:** GC § 43350. Subsection (f) amended by P.L. 24-144:2.

**§ 18302. Signature.**

All policies issued on risks in Guam shall be signed and subscribed as provided in this section:

(a) If the insurer is an admitted domestic insurer, each policy shall be signed and subscribed by two (2) of the major officers of the insurer designated in its articles of incorporation or in its by-laws to do so.

(b) If the insurer is an admitted foreign insurer, it shall be signed and subscribed by two (2) of the major officers of the insurer authorized to do so and in all cases it shall be counter-signed by such insurer's authorized resident general agent, or shall have attached thereto an appropriate countersignature endorsement signed by such resident general agent.

(c) If the insurer is an admitted alien insurer, it shall be signed by its United States general manager or other person in charge of its United States business if it has such official, or if it does not, by two (2) of the major officers of the insurer authorized to do so, and in all cases it shall be countersigned by such insurer's authorized resident general agent, or shall have attached thereto an appropriate countersignature endorsement signed by such resident general agent.

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(d) Countersignature, by an authorized resident general agent of the insurer originating a contract of insurance participated in by other insurers as co-sureties or co-indemnitors, shall satisfy all countersignature requirements in respect of such contract of insurance.

(e) The provisions of this section relating to countersignature by an insurer's authorized general agent shall not apply to: (1) any contract of insurance covering the rolling stock of any railroad, or covering any vessel, aircraft, or motor carrier used in interstate or foreign commerce, or covering any liability or other risks incident to the ownership, maintenance or operation thereof; (2) any contract of reinsurance between any insurance companies or other insurers; (3) any contract of insurance covering any property in interstate or foreign commerce, or any liability or risks incident thereto.

SOURCE: GC § 43351.

**§ 18303. Coverage.**

When the name of the person intended to be insured is specified in a policy, it can be applied only to his own interest.

SOURCE: GC § 43352.

**§ 18304. Subsequent Owner of Interest.**

A policy may be so framed that it will inure to the benefit of whosoever, during the continuance of the risk, becomes the owner of the interest insured.

SOURCE: GC § 43353.

**§ 18305. Liability Policy: Direct Action.**

On any policy of liability insurance the injured person or his heirs or representatives shall have a right of direct action against the insurer within the terms and limits of the policy, whether or not the policy of insurance sued upon was written or delivered in Guam, and whether or not such policy contains a provision forbidding such direct action, provided that the cause of action arose in Guam. Such action may be brought against the insurer alone, or against both the insured and insurer.

SOURCE: GC § 43354.

**§ 18306. Liability Policy: Insolvency or Bankruptcy.**

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No policy of liability insurance shall be issued or delivered in Guam, unless it contains provisions to the effect that the insolvency or bankruptcy of the insured shall not release the insurer from the payment of damages for injuries sustained or loss occasioned during the term of such policy, and that in case execution against the insured is returned unsatisfied in any action brought by the injured person or his heirs, because of such insolvency or bankruptcy, an action may be maintained by the injured person or his heirs or representatives against such insurer within the terms and limits of the policy for the amount of the judgment not exceeding the amount of the policy.

SOURCE: GC § 43355.

**§ 18307. Open or Valued.**

A policy is either:

(a) An open policy which is one wherein the value of the subject matter is not agreed upon but is left to be ascertained in case of loss. An open policy shall not be written on real property for fire insurance or miscellaneous insurance.

(b) A valued policy which is one containing on its face an expressed agreement that the thing insured shall be valued at a specified sum.

SOURCE: GC § 43356.

**§ 18308. Form: Approval.**

It *shall* be unlawful for an insurer to use a policy form in affecting insurance *except* health insurance as approved pursuant to § 18308.1 without first obtaining the Commissioner's approval thereof as provided herein:

(a) The Commissioner *shall* study each form for the purpose of guarding against any fraud, misrepresentations *or* other forms of unfairness to the writings of the insured; *if* he *shall* approve a form, he *shall* endorse his approval on the face of both duplicates and transmit one to the insured and keep one in his permanent files; *if* he *shall* disapprove a form, he *shall* issue an order of disapproval stating therein his reasons and transmit a copy of the same to the insurer.

(b) All policies and provisions therein *shall* be printed in a type of which the face is *not* smaller than ten-point.

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(c) Every policy form filed with the Commissioner for approval *shall* be accompanied by a filing fee of Twenty Dollars (\$20.00).

**SOURCE:** GC § 43357. Subsection (c) added by P.L. 29-002:V:I:97 (May 18, 2007). Amended by P.L. 29-121:4 (Dec. 2, 2008).

**NOTE:** GC § 43357 contained subsections (b) and (c) without a subsection (a). GC § 43357 (b) and (c) changed to (a) and (b) respectively to reflect correct citation.

**§ 18308.1 Form Approval: Health Insurance.**

(a) *No* health insurance policy *or* endorsement *shall* be delivered *or* issued for delivery in Guam unless the policy *or* endorsement form is filed for approval with the Commissioner at least forty-five (45) days prior to its effective date.

(b) The Commissioner *shall* review each health insurance policy *or* endorsement filed for the purpose of determining the following about the policy *or* endorsement:

- (1) Whether it is in violation of this Chapter;
- (2) Whether it contains any title, heading, *or* provision that is misleading;
- (3) Whether it contains provisions that are so unclear *or* deceptively worded that they encourage misrepresentation; *or*
- (4) Whether it provides coverage of such a limited nature that it is contrary to the public interest of Guam.

(c) Within forty-five (45) days after the filing of any health insurance policy form *or* endorsement requiring approval pursuant to this Section, the Commissioner will indicate approval by signing *or* giving explanation for disapproval in writing. The Commissioner, for good cause, may extend, for up to an additional forty-five (45) days, the period within which he *shall* approve *or* disapprove the policy form *or* endorsement. Good cause may include written notification to the insurer within the first forty-five (45) days that its submission is incomplete, and the items necessary to complete the submission. Any policy form *or* endorsement received but *neither* approved *nor* disapproved by the Commissioner *shall* be deemed approved at the end of the forty-five (45) days *if* the period is *not* extended, *or* at the end of the extended period, *if* any; however, *no* policy form *or* endorsement *shall* be deemed approved under the provisions of this Section *unless* written notice of the intent to use the policy form *or* endorsement has been

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filed with the Commissioner.

(d) *If* the Commissioner proposes to withdraw approval previously given *or* deemed given to the policy form *or* endorsement to which this Section applies, he *shall* notify the insurer in writing at least ninety (90) days prior to the proposed effective date of withdrawal giving his reasons for withdrawal.

(e) The policy and endorsement forms approved under this Section *shall* be open to public inspection. Copies may be obtained by any person on request and upon payment of a reasonable charge for the copies.

(f) Every health insurance policy form filed with the Commissioner for approval *shall* be accompanied by a filing fee of Twenty Dollars (\$20.00). An application for insurance and other collateral documents which are *not* incorporated by reference into a policy of insurance are *not* insurance policy forms for the purpose of determining the filing fee.

**SOURCE:** Added by P.L. 29-121:5 (Dec. 2, 2008)

**§ 18309. Coinsurance Clause Explanation.**

Where a policy contains a coinsurance clause, the insurer shall notify the policy-holder of its existence, such notification to include the following information:

- (a) The name of the Insured;
- (b) The policy number of the policy and the effective date thereof;
- (c) The following notice in type of which the face is not smaller than six (6) points:

‘Important, this policy contains a coinsurance clause. If the amount of insurance purchased is not equal to the cash or replacement cost of your insured property then the settlement you received arising from future losses will not be sufficient to replace the loss you have suffered. It is your responsibility as the insured to make certain the insured value, as stated below, is equal to cash value or full replacement cost of your insured property if you desire full protection.’

- (d) The coinsurance clause in its entirety is a type of which the face is not smaller than six (6) points;
- (e) The insured value of the property.

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**SOURCE:** GC § 43358. Repealed by P.L. 13-187:218; Added by P.L. 14-71:1.

**§ 18310. Coinsurance Clause Explanation: Notification.**

Notification of the coinsurance clause, as required by § 18309, shall be made in the manner and at such intervals in time as shall be prescribed by the Insurance Commissioner.

**SOURCE:** GC § 43359. Added by P.L. 14-71:1.

**§ 18311. Penalty.**

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and shall, upon conviction, be subject to a fine of not more than one thousand dollars (\$1,000.00) if the person convicted is not a natural person, or if the person convicted is a natural person, a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment.

**SOURCE:** GC § 43360. Renumbered by P.L. 14-71:1.

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**ARTICLE 4**  
**THE PREMIUM**

- § 18401. Accrual of Premium.
- § 18402. Right to Return of Premium.
- § 18403. Acknowledgment of Receipt of Premium.

**§ 18401. Accrual of Premium.**

The insurer is entitled to payment of the premium as soon as the subject matter insured is exposed to the peril insured against.

**SOURCE:** GC § 43375.

**§ 18402. Right to Return of Premium.**

Unless the insurance contract otherwise provides, a person insured is entitled to a return of premium after a policy is cancelled or rescinded as provided herein:

- (a) To the whole premium if no part of his interest in the thing insured is exposed to any of the perils insured against;

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(b) Where the insurance is for a definite term, and the insured surrenders his policy, to such proportion of the premium as corresponds to the unexpired portion of the term after deducting from the whole premium any claim for loss or damage which has previously accrued;

(c) When the contract is void or voidable on account of the fraud or misrepresentation of the insurer;

(d) When the contract is void or voidable on account of facts of the existence of which the insured was ignorant without his fault;

(e) When, by any default of the insured other than actual fraud, the insurer did not incur any liability under the policy.

SOURCE: GC § 43376.

**§ 18403. Acknowledgment of Receipt of Premium.**

An acknowledgment in a policy of receipt of the premium is conclusive evidence of its payment, so far as to make the policy binding, notwithstanding any stipulation in the policy that it shall not be binding until the premium is actually paid.

SOURCE: GC § 43377.

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**ARTICLE 5  
RATES**

- § 18501. Approval.
- § 18501.1 Rate Approval: Health Insurance.
- § 18502. Standards.
- § 18503. Rating bureaus.
- § 18504. Penalty.

**§ 18501. Approval.**

(a) All rates, rate schedules, rate plans and methods of computing rates to be applied to any insurance transacted in Guam *shall* be filed with the office of the Commissioner, and before any rates may be charged, advertised, publicized, *or* otherwise represented, they *shall* have the

approval of the Commissioner.

(b) It shall be unlawful for any insurer to use any rates in violation of the provisions of this section, or to alter, amend or otherwise change any rates without the approval of the Commissioner.

(c) It shall be unlawful for any insurer to charge any rate for any insurance transacted in Guam other than the rate approved by the Commissioner for such insurer for such risk and class of insurance.

(d) A filing fee of Two Hundred Dollars (\$200.00) *shall* be paid for every rate plan or request for the Commissioner's approval that is filed with the Commissioner.

**SOURCE:** GC § 43385. Subsection (d) added by P.L. 29-002:V:I:98 (May 18, 2007).  
Subsection (a) amended by P.L. 29-121:6 (Dec. 2, 2008).

### **§ 18501.1 Rate Approval: Health Insurance.**

(a) *No* insurance rate, rate schedule, rate plans *or* methods of computing rates to be applied to any insurance transacted in Guam *shall* be advertised, publicized, charged *or* otherwise represented in Guam *unless* the rate, rate schedule, rate plan *or* method of computing rates is filed for approval with the Commissioner at least forty-five (45) days prior to its effective date, whichever occurs first.

(b) The Commissioner *shall* review each rate, rate schedule, rate plan *or* method of computing rates for the purpose of determining the following about the rate, rate schedule, rate plan *or* method of computing rates:

(1) whether it is in violation of this Chapter;

(2) whether it is unreasonable in relation to the benefits provided;

*or*

(3) whether it *exceeds* those amounts established by rule *or* regulation.

(c) Within forty-five (45) days after the filing of any insurance rate, rate schedule, rate plan *or* method of computing rates requiring approval pursuant to this Section, the Commissioner will indicate approval by signing *or* giving explanation for disapproval in writing. The Commissioner, for good cause, *may* extend, for up to an additional forty-five (45) days, the period within which he *shall* approve *or* disapprove the rate, rate schedule, rate plan *or* method of computing rates. Good cause

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may include written notification to the insurer within the first forty-five (45) days that its rate submission is incomplete, and the items necessary to complete the submission. Any rate, rate schedule, rate plan *or* method of computing rates received but *neither* approved *nor* disapproved by the Commissioner *shall* be deemed approved at the end of the forty-five (45) days *if* the period is *not* extended, *or* at the end of the extended period, *if* any; however, *no* rate, rate schedule, rate plan *or* method of computing rates policy form *or* endorsement *shall* be deemed approved under the provisions of this Section unless written notice of the intent to use the rate, rate schedule, rate plan *or* method of computing rates has been filed with the Commissioner.

(d) It *shall* be unlawful for any insurer to use any rate in violation of the provisions of this Section, *or* to alter, amend *or* otherwise change any rate without the approval of the Commissioner.

(e) It *shall* be unlawful for any insurer to charge any rate for insurance transacted in Guam other than the rate approved by the Commissioner for such insurer for such risk and class of insurance.

(f) *If* the Commissioner proposes to withdraw approval of a rate, rate schedule, rate plan *or* method of computing rates previously given or deemed given to which this Section applies, he *shall* notify the insurer in writing at least ninety (90) days prior to the proposed effective date of withdrawal giving his reasons for withdrawal.

(g) The rate, rate schedule, rate plan *or* method of computing rates approved under this Section *shall* be open to public inspection. Copies may be obtained by any person on request and upon payment of a reasonable charge for the copies.

(h) A filing fee of Two Hundred Dollars (\$200.00) *shall* be paid for every rate plan *or* request filed for the Commissioner's approval.

**SOURCE:** Added by P.L. 29-121:7 (Dec. 2, 2008).

**§ 18502. Standards.**

An insurer in making rates, and the Commissioner in approving them, shall apply the standards prescribed in this section:

(a) Rates shall not be excessive or inadequate, as herein provided, nor shall they be unfairly discriminatory.

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(b) No rate shall be held excessive unless such rate is unreasonably high for the insurance provided and reasonable degree of competition does not exist in Guam with respect to the classification to which such rate is applicable.

(c) No rate shall be held inadequate unless such rate is unreasonably low for the insurance provided and the continued use of such rate endangers the solvency of the insurer; or unless such rate is unreasonably low for the insurance provided and the use of such rate by the insurer will have the effect of destroying competition in Guam

(d) Consideration shall be given, to the extent applicable, to past and prospective loss experiences, to prevailing hazards, and to underwriting profits, contingencies, expenses and other normal business requirements and factors.

**SOURCE:** GC § 43386.

**§ 18503. Rating Bureaus.**

Insurers are authorized to become members or subscribers of rating bureaus, or advisory organizations of a like nature and may use the rates, rating systems, and underwriting rules and policy forms of such organizations, provided the same are not excessive, inadequate, nor unfairly discriminatory, conform to the provisions of this Title, and are approved by the Commissioner prior to their use as provided.

**SOURCE:** GC § 43357.

**§ 18504. Penalty.**

Any person who is found violating any provision of this Article shall pay a fine of not more than Five Thousand Dollars (\$5,000.00).

**SOURCE:** GC § 43388. Repealed by P.L. 13-187:219. Added by P.L. 27-002:V:1:99 (May 18, 2007).

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**ARTICLE 6**  
**LOSS**

- § 18601. Peril not Insured Against: Rescue Efforts.
- § 18602. Wilful Act of Insured: Negligence.
- § 18603. Notice of Loss.
- § 18604. Preliminary Proof of Loss.
- § 18605. Waiver of Defects in Notice or Preliminary Proof.
- § 18606. Waiver of Delay.
- § 18607. Policy Requiring Proof by Third Person: Sufficiency of Compliance.
- § 18608. Failure to Pay Loss, Recovery of Amount Due and Damages.
- § 18609. Total Loss by Fire or Miscellaneous Insurance: Recovery of Full Amount.

**§ 18601. Peril not Insured Against: Rescue Efforts.**

An insurer is liable:

(a) Where the thing insured is rescued from a peril insured against and which would otherwise have caused a loss if in the course of such rescue, the thing is exposed to a peril not insured against, and which permanently deprives the insured of its possession, in whole or in part.

(b) If a loss is caused by efforts to rescue the thing insured from a peril insured against.

SOURCE: GC § 43400.

**§ 18602. Wilful Act of Insured: Negligence.**

An insurer is not liable for a loss caused by the wilful act of the insured; but he is not exonerated by the negligence of the insured or of the insured's agents or others.

SOURCE: GC § 43401.

**§ 18603. Notice of Loss.**

Failure to give notice of loss covered by marine or fire insurance within any period provided for by the policy or otherwise, shall not exonerate the insurer if the notice is given within a reasonable time after the insured loss has or should have first knowledge of said loss. In all other classes of insurance, the insured shall have at least twenty (20) days after

the event within which to give notice of loss. No requirement of notice within a lesser period is valid.

SOURCE: GC § 43402.

**§ 18604. Preliminary Proof of Loss.**

When preliminary proof of loss is required by a policy, the insured is not bound to give such proof as would be necessary in a court of justice, but it is sufficient for him to give the best evidence in his power at the time.

SOURCE: GC § 43403.

**§ 18605. Waiver of Defects in Notice or Preliminary Proof.**

All defects in a notice of loss, or in preliminary proof thereof, which the insured might remedy, and which the insurer omits to specify to him, without unnecessary delay, as grounds of objection, are waived.

SOURCE: GC § 43404.

**§ 18606. Waiver of Delay.**

Delay in the presentation to an insurer of notice, or preliminary proof of loss, is waived if caused by an act of the insurer, or if he omits to make objection promptly and specifically upon that ground.

SOURCE: GC § 43405.

**§ 18607. Policy Requiring Proof by Third Person: Sufficiency of Compliance.**

If a policy requires, by way of preliminary proof of loss, the certificate or testimony of a person other than the insured beneficiary, there is sufficient compliance with the requirement if the insured or the beneficiary (a) uses reasonable diligence to procure the certificate or testimony, and (b) in case of refusal to give it to him, furnishes reasonable evidence to the insurer that the refusal was not induced by just grounds of disbelief in the facts necessary to be certified or testified to.

SOURCE: GC § 43406.

**§ 18608. Failure to Pay Loss, Recovery of Amount Due and Damages.**

In all cases where loss occurs and the insurer liable therefor shall fail to pay the same within the time specified in the policy, after demand made therefor, such insurer shall be liable to pay the holder of such policy, in

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addition to the amount of such loss, twelve percent (12%) damages upon the amount of such loss, together with all reasonable attorney's fees for the prosecution and collection of said loss; said attorney's fees to be taxed by the court where the same is heard on original action, by appeal or otherwise, and to be taxed as a part of the costs therein, and collected as other cost are or may be by law collected; and writs of attachment or garnishment filed or issued after proof of loss or death has been received by the insurer shall not defeat the provisions of this section, provided the insurer desiring to pay the amount of the claim as shown in the proof of loss or death may pay said amount into the registry of the court after issuance of writs of attachment and garnishment, in which event there shall be no further liability on the part of said insurer. [U.S. for use of *Getz Bros. & Co. v. Markowitz Bros.* (1967), 383 F.2d. 595.]

SOURCE: GC § 43407.

**§ 18609. Total Loss by Fire or Miscellaneous Insurance: Recovery of Full Amount.**

A fire or miscellaneous insurance policy, in case of a total loss of any risk insured under the classes specified in this Title as fire or miscellaneous insurance shall be held and considered to be a liquidated demand against the insurer taking such risk for the full amount stated in such policy, or the full amount upon which the insurer charges, collects or receives a premium; provided the provisions of this article shall not apply to personal property. In the event of a total loss or destruction of any personal property on which the amount of the appraisal or agreed loss is less than the total amount insured thereon, the insurer shall return to the insured the unearned premium for the excess of insurance over the appraised or agreed loss, to be paid at the same time and in the same manner as the loss shall be paid; and the unearned premium shall be a just and legal claim against the insurer. [*National Union Fire Ins. Co. v. Santos* (1962), 303 F.2d. 309.]

SOURCE: GC § 43408.

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ARTICLE 7  
DOUBLE INSURANCE

- § 18701. Double Insurance.  
§ 18702. Double Insurance: Contribution.

**§ 18701. Double Insurance.**

Double insurance exists when the same person is insured by several insurers separately in respect to the same subject, interest and risk.

SOURCE: GC § 43425.

**§ 18702. Double Insurance: Contribution.**

In case of double insurance, the several insurers are liable to pay losses thereon as follows:

(a) Fire insurance. In fire and miscellaneous insurance, each insurer shall contribute ratably without regard to the dates of the several policies.

(b) Marine insurance. In marine insurance, the liability of the several insurers for a total loss, whether actual or constructive, where the policies are not simultaneous, is in the order of the dates of the several policies. No liability attaches to a second or other subsequent policy, except as to the excess of the loss over the amount of all previous policies on the same interest. If two (2) or more policies bear the same date, they are deemed to be simultaneous, and each insurer on simultaneous policies shall contribute ratably, the insolvency of any of the insurers does not affect the proportionate liability of the other insurers. All insurers on the same marine interest shall contribute ratably for a partial or average loss.

SOURCE: GC § 43426.

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**ARTICLE 8**  
**REINSURANCE**

- § 18801. Definitions.
- § 18802. Authorization.

**§ 18801. Definitions.**

A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

**SOURCE:** GC § 43450.

**§ 18802. Authorization.**

No admitted insurer shall reinsure with any other insurer who has not been previously admitted in Guam, or who has not been approved by the Commissioner as a reinsurer.

**SOURCE:** GC § 43451.

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